

CITY COUNCIL MINUTES

May 28, 2009

SPECIAL SESSION

The Special Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Thursday, May 28, 2009 at 5:00 p.m. with Mayor J. M. Holmes presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Keith Nesbitt, Bill Kirby, J. M. Holmes

Council Members Absent: Kevin Hanley, Bridget Powers

Staff Members Present: City Manager Robert Richardson

1. Public Comment

None

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6. **MOTION: Nesbitt/Kirby/Approved by Voice**

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: Robert Richardson
Employee Group: All Bargaining Units

REPORT OUT OF CLOSED SESSION

No reportable action

ADJOURNMENT

Mayor Holmes, without objection, adjourned the meeting at 5:45 p.m.

J. M. Holmes, Mayor

Joseph G. R. Labrie, City Clerk

CITY COUNCIL MINUTES

June 8, 2009

REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, June 8, 2009 at 6:00 p.m. following a 5:15 p.m. Closed Session with Mayor J. M. Holmes presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Keith Nesbitt, Kevin Hanley, Bill Kirby, Bridget Powers, J. M. Holmes

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6 **MOTION: Nesbitt/Hanley/Approved by Voice**

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: Robert Richardson
Employee Group: All Bargaining Units

REPORT OUT OF CLOSED SESSION

No reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

Staff Sergeant Fernandez received the proclamation naming June 8-14, 2009 as United States Army Week in Auburn.

Mayor Holmes commended the Public Works Department for the cleanup work at the Conheim Station.

Mayor Holmes said the Sacramento Bee showed the Sacramento Capital area as number twelve on the list of fittest cities. He said ranking was taken from the American Fittest Cities Index. He said Auburn was mentioned in the newspaper article as the "endurance athletic haven."

Mayor Holmes reminded the public that Saturday June 12th is Auburn cleanup day. He said with the exception of electronic products, Auburn Placer Disposal will pick-up discarded items as a special service to its Auburn customers.

Council Member Holmes stated that the May 11th minutes should be corrected to read Reamer Street and not River Street.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

1. **Minutes**

By **MOTION** approve City Council Minutes of May 11, 2009.

2. **Program Supplement Agreement – Borland Avenue/Highway 49 Signal Upgrade Project**

By **RESOLUTION 09-70** authorize the Director of Public Works to execute the Program Supplement No. M002 Rev. 1 for Project Number STPLH-5077 (004), in the amount of \$405,000 for the Borland Avenue/Highway 49 Signal Upgrade Project.

3. **Notice of Completion – Maidu Drive Sidewalk Project**

By **RESOLUTION 09-71** authorize the recording of a Notice of Completion for the Maidu Drive Sidewalk Project completed by contractor Western Engineering.

4. **Notice of Completion – East Lincoln Way Sidewalk Project**

By **RESOLUTION 09-72** authorize the recording of a Notice of Completion for the East Lincoln Way Sidewalk Project completed by contractor Western Engineering.

5. **Weed Abatement – Declare Public Nuisance**

By **RESOLUTION 09-73** declare Public Nuisance of certain properties within the City of Auburn identified as containing weeds, rubbish, and or debris.

6. **Authorization to Appoint Wastewater Treatment Facility Upgrade Financing Team**

By **RESOLUTION 09-74** appoint Southwest Securities (ML Stern) as Underwriter and Jones Hall, a Professional Law Corporation as Bond Counsel and Disclosure Counsel, as it relates to the financing of improvements to the City of Auburn Wastewater Treatment Facility.

***** End of Consent Calendar *****

By **MOTION** approve the Consent Calendar with the corrected reference to Reamer Street. **MOTION: Hanley/Nesbitt/Approved 5:0**

7. **Public Comment**

Scott Holbrook, Auburn Recreation District (ARD) Board Member, invited Council Members and the public to ARD's annual "Party in the Park."

Council Member Kirby complimented Mr. Holbrook on all the efforts he has put forth annually for the celebration. He said Mr. Holbrook has been a great asset to the community.

Fire Chief Mark D'Ambrogi briefed the Council on the local hazard mitigation plan. He said it is a joint effort with the City and Placer County. He said review of portions of the draft plan will be held in Kings Beach on the following night and on Wednesday locally. He said he will represent the City at both hearings. He said he will present the final plan to the Council for adoption. He said a great deal of work went into preparation by both the Community Development Department and the Public Works Department. He said copies of the draft plan are on both the City and County websites. He said if anyone wanted a printed copy, he would provide it.

PUBLIC HEARING

8. **Levying of Assessments for Fiscal Year 2009-10 in connection with the Old Town and Downtown Business Improvement Districts**

City Attorney Michael introduced the item. He explained that it is an annual item by which the City Council levies assessments in the business

improvement districts after receiving reports from them at a previous meeting. He said there were no proposed increases by either district.

By **RESOLUTION 09-75** levy assessments for fiscal year 2009-10 in connection with the Old Town Auburn Business Improvement District and the Downtown Auburn Business Improvement District. **MOTION: Hanley/Powers/Approved 5:0**

9. **2008 Weed Abatement Program, Assess Tax Rolls**

Fire Chief Mark D'Ambrogi advised that the item was a continuation of the 2008 Weed Abatement Program. His staff report reflected the properties that have been abated and the cost absorbed by the City. He said the Public Hearing is to allow comments and objections from those listed on the cost report.

Mayor Holmes said there were only four parcels as opposed to the numerous listings shown for the 2009 Weed Abatement Program. Chief D'Ambrogi advised that the 2009 list will decrease about 98% as the property owners respond throughout the year.

Council Member Hanley confirmed with Chief D'Ambrogi that the City had complied with all requirements for noticing the property owners.

The Chief advised that Requests for Proposals are sent to certified vendors for abatement services. He said the Fire Department does collect an "admin fee" for the process.

By **RESOLUTION 09-76** approve the 2008 cost report of the weed abatement program and direct the City Clerk to file a certified copy of the report with the Placer County Auditor-Controller in order to collect cost assessments. **MOTION: Nesbitt/Powers/Approved 5:0**

REPORTS

10. **Informational Reports from Committees/Commissions**

Michael Otten, Library Advisory Board Member, presented each Council Member with a packet of information. He said in the 1930's the Carnegie Library served as City Hall wherein the City Trustees performed their duties. He said the library provided many valuable services to the community in addition housing books. He invited the Council to the Centennial Celebration at the Library as part of the Auburn Artwalk.

11. **Updated City Website**

Administrative Services Director Andy Heath advised that the City Manager had directed staff to design a new City website. He said that Shari Conley and Brian Gouge' are two members of the eight-member team that have worked extensively on the site. Shari Conley presented the new website to the Council. Brian Gouge' stated that the team decided to create a website that was user friendly. He said he felt that goal had been accomplished. He said the website would serve the community well.

Mayor Holmes asked that the terms of commissioners and committee members be shown on the website. He asked that all City forms with filing information also be included. He asked if the General Plan could be placed on the website as well.

Council Member Hanley suggested for inclusion a map of the City, a City newsletter, additional links to Placer County agencies and upcoming events.

Council Member Nesbitt suggested posting wineries in the area.

Council Member Kirby stated he would like to see all the wineries in the region listed. He said he would like to see a calendar of events. Ms. Conley stated that at the current time the City is relying on the Chamber's calendar of events, but that the City could have its own if Council would prefer it. He said he felt the brightness of the main site photograph should be enhanced.

Cheryl Maki, Auburn resident, stated that the first website was created when she was a Council Member. She said there were many decisions that had to be made as to what to put on the site. She asked if a permit process could be initiated so that permits could be obtained on line.

Administrative Services Director Andy Heath said there would be fees involved to pay an outside group to administer the payment receipt. He said the City has not yet explored that option, but can do so in the future.

Michael Otten suggested adding a link to the Placer County Visitors Bureau.

By **MOTION** authorize the Website Project Team to transition the current website to a version that is user friendly, informative, as well as updated with current City of Auburn photos. **MOTION: Nesbitt/Powers/**
Approved 5:0

12. **City Council Committee Reports**

Mayor Holmes advised that SED Corp is applying for funds to increase the availability of broadband in the area. He said he specifically requested that the area of the Auburn Airport be included. He said SED Corp is also exploring the possibility of having a business boot camp in the area.

Council Member Powers reported on meetings in connection with the Placer County Economic Development Commission, the Chamber of Commerce and with City staff member Lance Lowe. She said they have formulated a committee to put together a group of lessees and landowners at the airport. She said they will have a few business owners speak and commercial real estate brokers. She said the idea is to initiate a focus group to define airport needs to try to increase leasing. She said the tentative date for the focus group to meet will be September 24, 2009.

Council Member Kirby, Vice Chairman of the Placer-Nevada County Wastewater Authority, reported that that some money has been authorized but not appropriated for the regional wastewater treatment project. He said that Supervisor Holmes and Supervisor Weygandt advise that there may be a possibility of obtaining some funding for a regional facility. He said that funding would significantly decrease the cost.

Council Member Kirby stated that there has been some discussion with Old Town business owner Linda Robinson, the business associations and the City Manager regarding presenting evening movies. He said they will be looking for private donors to contribute to licensing fees.

COUNCIL BUSINESS

13. **Solicitation Ordinance – First Reading**

City Attorney Michael Colantuono explained that the existing ordinance applies to all door-to-door solicitation in residential areas. He said it does not apply to commercial zones or public rights of way. He said the current ordinance is probably unenforceable because "it is thirty years old and gives the Police Chief discretion to deny a solicitation permit for such reasons as the applicant lacking good moral character." He said the current law defines that the application of the Police Chief's standards "must be very simple, very ministerial and very over-the counter." He said the options for the Council are to adopt the proposed ordinance and continue to regulate or not to adopt the proposed ordinance and not enforce the existing ordinance. He said Council will need to decide whether or not to extend the ordinance to include commercial areas and public rights of way. He said the Police Chief will recommend that it be

extended throughout the City. He said if the Council wants to regulate solicitation, it must be consistent with current law which means, "You cannot distinguish among speakers based on the content of their speech. You can only regulate the where, the when and the how."

Police Chief Valerie Harris stated that there is a need to broaden the solicitation ordinance to include additional areas of oversight. She said there is a need for the Police Department to be able to enforce compliance requirements.

Mayor Holmes suggested that the ordinance was partially driven by area panhandlers. She said to deal with that problem there would need to be a Panhandling Ordinance in addition to the Solicitation Ordinance.

Council questions followed regarding (1) non-profit solicitation (2) the current permit process (3) complaints received in 2008 (4) distinguishing between residential and commercial enforcement (5) on-line permit service (6) time, place and manner restrictions (7) uniform regulation and (8) realtors' door-to-door solicitation.

Seth King, Placer County resident, stated that he sells books door-to-door. He said he has not asked permission from the government to conduct his business and will continue not to do so. He said government is trying to take away an essential freedom by forcing people to ask for permission before conducting sales. He said if the Council is willing to put people such as himself in jail; it is overstepping its bounds. He said he was never asked to show a permit by a resident.

Cheryl Maki, Auburn resident, said she had someone attempt to solicit her stating that he could win trip to Disneyland if he sold a certain number of books. She said she asked for a permit which he could not produce. She said she called the police. She said it was discovered that it was an illegal operation. Therefore, she felt that the solicitation ordinance would be a way to protect the community. She said there is nothing wrong with requiring a legitimate solicitor to obtain a permit.

Council Member Nesbitt confirmed with the Police Chief that in the time frame a permit is issued a fraudulent operation can not be detected.

City Attorney Colantuono responded that the ordinance would help the police in that (1) most fraudulent solicitors will not ask for a permit which would allow police to interact with those persons (2) the permit process will provide information and (3) it will provide the opportunity to explain the rules of solicitation to the solicitor.

Mayor Holmes said that he was uncomfortable with the ordinance although he recognized the need for stronger enforcement. He said the ordinance does not guarantee that fraudulent activity will not occur. He said he did not like the fact that service organizations would have to go through the permit process.

Council Member Nesbitt asked if simple solicitation of a neighbor for a non-profit group could be interpreted as "selective enforcement" if challenged.

City Attorney Colantuono advised that the City has prosecutorial discretion. He said it is entirely defensible for the City to enforce the ordinance on a "complaints received" basis. He said it is commonly done and completely justifiable.

Council Member Hanley said he would approach the issue by first identifying the problem. He said the staff report does not identify the problem, numbers are not shown and there is no explanation of how the current law is inadequate. He said, "There is case law that defies common sense" made on abstract criteria and does not necessarily meet community needs. He said he does agree that the old ordinance needs to be updated. He suggested that a more defined ordinance be brought back to the Council with a ban on residential and commercial solicitation. Council Member Hanley asked that a Panhandling Ordinance be initiated as well. He said he does not want to be in a position to vote for law that bans charitable activity without a permit.

Council Member Nesbitt stated that he concurred with Council Member Hanley. He said although he appreciated the intent of the ordinance, he will not support a permit process that includes charitable organizations.

Council Member Powers stated that Auburn is a charitable community. She said she does see the need to update the ordinance and would support postponing the item. She said she would like to see an ordinance that does not include requiring charitable groups to obtain a permit.

Council Member Kirby stated that he supported Council Member Hanley's comments. He said he supports less and more focused government.

Mayor Holmes asked that the item be referred to staff for further consideration. He asked for background on past practices.

City Manager Richardson stated that the City Attorney was tasked with going through the City ordinances and updating them. He said the Solicitation Ordinance was part of the process. He said, "We've hit a

grouping now that is going to be more challenging.” He said that this was the first of many ordinances to be heard in the future.

Council Member Kirby suggested a workshop to discuss publically each ordinance that will be updated. He said it would save meeting time and encourage public input.

14. **Wastewater Treatment Plant Operations Contract**

Public Works Director Jack Warren said the item had been in front of the Council previously. He reminded Council that Public Works started work on the contract last year because it expires July 1, 2009. He said earlier the issue was whether or not to extend the contract for five years or if new proposals should be requested. He said in February a decision was made by the Council for an additional three-year contract with OMI. He said the idea was not to have a change in operations while the plant was going through modifications. He said the final language is close to completion by OMI and the City Attorney's staff.

Mr. Warren said a Public Works crew member will get assigned to OMI collection staff to be paid for out of the Sewer Fund. In turn OMI will reduce its staff by one worker and decrease the contract amount by \$68,000.

Council questions followed with regard to: (1) direct costs (2) management fee and (3) the employee transfer.

Dennis Burrell from CH2M Hill OMI explained the management fee consists of many entities such as Human Resources, Accounts Payable, Procurement Department, and training. He said OMI takes extremely good care of the wastewater plant that was built in the 1970s. He explained CH2M Hill OMI's cost increases and decreases. He said there is some profit in the fee but the majority of the fee goes to support the plant itself. He said they keep their costs competitive and are the second lowest in the area.

Engineering Division Manager explained that the contract will undergo legal review, reference for the City Clerk's office that it is the final agreement and “will be consistent with bullet points in the staff report and any addendum that was provided.”

Mayor Holmes requested the item returned to the Council when the contract has been finalized.

Cheryl Maki advised that she reviewed the contract. She said adding a City employee to the contract was a wonderful idea. She said that this is

a minor increase for a company that has done an excellent job for many years.

By **MOTION** continue the item to the June 27, 2009 City Council meeting.

MOTION: Nesbitt/Powers/Approved by Voice

15. **Solid Waste Franchise Agreement Update**

Public Works Director Warren reminded Council that Public Works was directed to investigate the possibility of combining the solid waste contract with another jurisdiction. He said the expiration dates of the agreements vary greatly and cannot be combined at this time.

Council Member Hanley asked if the City had any discussions with Placer County. Engineering Division Manager Schroeder advised that she had spoken with staff but that they did not speak on behalf of the Board of Supervisors. She said there is always willingness for the County and City to work together on these types of issues. She said Placer County recently finalized its renewal agreement which may not afford an enthusiastic effort at this time.

City Manager Richardson advised that staff also spoke with the City of Rocklin who was just completing negotiations and did not have any interest in combining the contract at this time.

Council Member Hanley felt that the City should look at a combined contract prior to the next renewal.

Council Member Nesbitt said that unless there is dissatisfaction with the public, there is no reason not to renew the contract.

Mayor Holmes advised that he, the City Manager, the County CEO and County Supervisor meet on a regular basis. He said he will bring it up for discussion at the next meeting to see if there is any interest in combining the contract.

Council Member Kirby said he would favor ending the contract at the same time the County's contract ends with Auburn Placer Disposal. He said if there was interest in combining contracts, it could be done at that time.

ADJOURNMENT

Mayor Holmes, without objection, adjourned the meeting at 8:30 p.m. to the meeting of the Auburn Urban Development Authority.

J. M. Holmes, Mayor

Joseph G. R. Labrie, City Clerk